



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,155	10/22/2003	Gordon J. Frost	25281B	9517
22889	7590	08/14/2007		
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			EXAMINER DANIELS, MATTHEW J	
			ART UNIT 1732	PAPER NUMBER
			MAIL DATE 08/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/692,155

Applicant(s)

FROST ET AL.

Examiner

Matthew J. Daniels

Art Unit

1732

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-24.
Claim(s) withdrawn from consideration: 25-90.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See the enclosed response to arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 27 July 2007 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

a) This is a new rejection (page 19, line 3) although the Examiner repeats the same rejections verbatim in the final Office Action (page 18, third paragraph), and there is no basis for making the Office Action final. The Examiner for the first time asserts that Grisch provides that the veil or fabric has been preimpregnated. Grisch does not disclose or in any way teach a light facing veil comprising a fibrous strand and a "binder system" onto any laminate layer for any reason. Applicants note that Grisch emphasizes that the veil comprises a fabric or veil that may be preimpregnated.

b) The claims are not being construed in accordance with the proper canons of claim construction. The binder cannot be the same as the resin.

c) One of ordinary skill would be motivated to incorporate the veil between the layers 23 and 26 of the Kimio reference to provide strength.

d) The speculative benefits cited by the Examiner do not alone provide the type of reason that would lead a skilled artisan to the inventive method of Claim 1 (Citing *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct at 1741 (2007) "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art..."). Nothing else in the prior art references would lead a skilled artisan to position a veil comprised of fibrous strands and a binder system onto a second laminate as set forth in Claim 1. Absent a proper reason to combine, obviousness is lacking.

Art Unit: 1732

e) Claim 24 requires that the binder system is selected from particular materials. Grisch does teach various types of resins for use in the SMC layer in the passage cited, but is completely silent to any type of binder system in the veil, let alone those of Claim 24.

These arguments are not persuasive for the following reasons:

a,b) In the Non-Final Rejection mailed 25 September 2006, on page 4 at line 14 the Grisch patent is cited (3:4-14) for its teaching of a resin impregnated veil layer, wherein the resin of the fiber reinforced composite flows through the veil layer. This previously cited portion of the Grisch reference is reproduced below:

The properties of the veil or fabric used with the SMC are critical. During compression molding, resin with which the veil or fabric has been preimpregnated and/or thermosetting resin from the SMC layer is liquified by heat generated during the molding and is caused to flow through the fabric, creating a barrier or resin-rich layer on the other side of the fabric. Thus, during the molding operation, the fabric material holds the reinforcing fibers internal to the composite while allowing the resin to pass therethrough to be deposited at the surface of the composite article formed. Since consider-

It is submitted that this position was set forth first in the Non-Final Rejection and subsequently maintained. In particular, "and/or" is recited at 3:7, which indicates that the Grisch patent should be interpreted such that the resin from the SMC layer and resin with which the veil has been preimpregnated flow through the fabric. Alternatively, the resin from the SMC layer would flow through the veil. However, in the broadest reasonable interpretation of "and/or," it is submitted that either interpretation is valid. Applicants' remarks appear to concede that the veil is

preimpregnated (page 20, line 6), and it is unclear to the Examiner why the pre-impregnation of the veil should not be interpreted to read on the claimed invention.

It is submitted that in view of the position set forth previously (page 4, line 14 of the Non-Final Rejection mailed 25 September 2006), that a final rejection was proper, and that the claim was properly construed in light of the portion of the Grisch reference reproduced above and other portions of the reference cited previously.

c) It is submitted that the “veil” of Grisch and the portion of column 3 reproduced above suggests that the veil be placed on the surface, and not in a configuration that would destroy its veiling function, as asserted by Applicants’ remarks.

d) It is submitted that the portion of the *KSR int’l Co. v. Teleflex, Inc.* case reproduced does not support the conclusion for which it is relied upon. Motivation was provided for the combination, and therefore this is not a situation where the rejection merely demonstrated that each of the claimed elements was known in the prior art. The claimed elements were described in the references, and one of ordinary skill in the art would have recognized the predictable results of the combination (namely improved corrosion resistance) as set forth in the rejection, and additionally improving the appearance of a surface or surfaces (Grisch, 6:26, 4:50-55) by masking fibers. In the combination with Kimio, the Kimio laminate would be improved in appearance and corrosion resistance by the Grisch veil.

e) The SMC layer is formed of nylon, glass fiber or thermoplastic material (polypropylene) and uses binders such as polyurethane, acrylic, phenolic, polyester, or epoxy. The veil layer is formed of nylon, glass fiber, or polypropylene and is preimpregnated. It would have been prima

Art Unit: 1732

facie obvious to one of ordinary skill in the art at the time of the invention to use types of resins already disclosed by Grisch as the preimpregnating resin for the veil material.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD
8/9/07

MJD

ca f
CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER
8/11/07